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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/864,976 | 05/24/2001 | Evan E. Koslow | 369.7217USU | 3444 |

30546 7590 03/22/2005

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EXAMINER

BOYD, JENNIFER A

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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1771

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,976

Applicant(s)

KOSLOW, EVAN E.

Examiner

Jennifer A Boyd

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 3/17/05
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Claims 10 – 16 are pending. Additional prior art has been found which renders the invention as currently claimed unpatentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102/103

3. Claims 10 – 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Koslow (US 6,015,608).

Koslow is directed to a liquid absorbent pad with anti-gel block laminate (Title).

Koslow teaches a liquid absorbent pad as seen in Figure 1 comprising an outer layer 10 of a liquid impervious material as required by claim, such as a thin plastic film or membrane, having an outer surface and inner surface 12. Mounted on the inner surface 12 of the outer layer 10 are a plurality of laminate segments, such as strips 14 (a-c), separated from one another by spaces 22 creating the Applicant's "channels". Each of the strips includes a bottom layer 16 of tissue, an upper layer 18 of tissue, and an intermediate layer 20 of super-absorbent polymer particles bonded to the bottom and upper tissue layers by thermoplastic binder particles, creating the "bonded mixture". The "bonded mixture" has admixture of super-absorbent polymer particles

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and much smaller particles of thermoplastic binder (column 1, lines 30 – 35). The super-absorbent polymer particles in the intermediate layer “channels” absorb the liquid. Mounted on the laminate strips 14 is a liquid acquisition layer 24. The acquisition layer 24 may be of any material currently used for this purpose and known to those skilled in the art such as an air laid medium. The outer layer 10 in combination with the bottom layer 16 of tissue segments are equated to Applicant’s “first substrate”. The liquid acquisition layer in combination with the upper layer 18 of tissue are equated to Applicant’s “second substrate”. An optional liquid-permeable skin-contacting spun-bonded medium 26 is provided, equated to Applicant’s “liquid permeable acquisition layer” (column 2, lines 29 – 65). The composite will absorb liquid when used as a diaper or in feminine hygiene products (column 1, lines 5 – 7), which is placed close to the body, thus adjacent to the liquid source.

It has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not amount to the mere claiming of use of a particular structure. *Ex parte Pfeiffer*, 135 USPQ 31 (1961). The limitations that describes the physical structure of the composite is not given patentable weight since it does not affect the method in a manipulative sense. It is suggested to amend the claim language to require “providing” a first substrate and a bonded mixture.

4. Claims 10 – 16 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dutkiewicz (US 6,562,742).

Dutkiewicz is directed to a high-performance absorbent structure (Title).

Dutkiewicz teaches an absorbent material which can comprise three layers wherein at

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least one layer comprises SAP particles placed in narrow lanes along the absorbent core (columns 3 and 4). See Figures 1a – 1d. Dutkiewicz teaches that the discrete placement of SAP particles allows for better containment of the particles, facilitates flow of liquid in the z-direction, because of the presence of areas with little or no SAP, and allows for easier flow and wicking of the fluid along the length of the core (column 4, lines 1 – 12). Dutkiewicz notes that the absorbent structure has a substantially dry liquid-accepting surface after receiving a quantity of liquid (Abstract).

It has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not amount to the mere claiming of use of a particular structure. *Ex parte Pfeiffer*, 135 USPQ 31 (1961). The limitations that describes the physical structure of the composite is not given patentable weight since it does not affect the method in a manipulative sense. It is suggested to amend the claim language to require “providing” a first substrate and a bonded mixture.

Response to Arguments

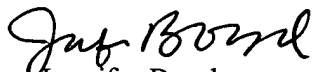
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6. Applicant's arguments with respect to claims 10 – 16 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer Boyd
March 17, 2005


ULA RUDDOCK
PRIMARY EXAMINER